



AT&T

Patrick W. Turner
Assistant Vice President - Senior Legal Counsel
AT&T Georgia
AT&T South Carolina

AT&T Services, Inc.
Legal Department
675 West Peachtree Street, NW
Suite 4323
Atlanta, GA 30308

T: 404-927-5290
pt1285@att.com

December 19, 2017

The Honorable Jocelyn Boyd
Chief Clerk of the Commission
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29211

Re: Troy LaColla v. Charter Fiberlink et. al.
Docket No. 2017-362-C

Dear Ms. Boyd:

Enclosed for filing in the above-captioned matter is AT&T South Carolina's Motion to Dismiss For Lack of Subject Matter Jurisdiction and Request for Expedited Ruling.

By copy of this letter, I am serving a copy of this document on all parties of record as indicated on the attached Certificate of Service.

Thank you for your assistance.

Sincerely,

Patrick W. Turner

PWT/sh
Enclosure

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In Re:

Troy LaColla v.)	
Charter Fiberlink SC-CCO, LLC; Frontier)	
Communications of the Carolinas, LLC and)	DOCKET NO. 2017-362-C
BellSouth Telecommunications, LLC d/b/a)	
AT&T South Carolina,)	
_____)	

**AT&T SOUTH CAROLINA’S MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER JURISDICTION
AND REQUEST FOR EXPEDITED RULING**

The Petitioner states that he has not been able to receive telephone and/or broadband services from the landline providers that serve his area,¹ and he does not specify the relief he seeks against AT&T South Carolina. Consistent with its practice over many years, AT&T South Carolina stands ready to voluntarily work in good faith with the Petitioner, the Office of Regulatory Staff (“ORS”), and other providers to identify and, as appropriate, implement options for offering service to the Petitioner (including without limitation broadband service provided by wireless, satellite, or other technologies).

Without waiving the foregoing, AT&T South Carolina respectfully moves the Commission to dismiss AT&T South Carolina from these proceedings because, to the extent the Petition is directed against AT&T South Carolina, the Commission lacks subject matter jurisdiction to address it. As an agency created by the General Assembly, the Commission “possesses only the

¹ As the Petitioner appears to concede in his Complaint, BellSouth Telecommunications, LLC d/b/a AT&T South Carolina (“AT&T South Carolina”) does not serve the Petitioner’s address and is not certificated by the Commission to provide landline services to the Petitioner’s address.

authority given it by the legislature,”² and no statute grants the Commission any authority over broadband services. To the contrary, state statutes have long provided that the Commission “must not impose any requirements related to the terms, conditions, rates or availability of broadband service or otherwise regulate broadband service”³ And with regard to AT&T South Carolina (and any other company that elected to operate under Section 58-9-576(C) prior to 2016), state statutes provide that the Commission must not impose any requirements related to the terms, conditions, rates or availability of, or otherwise regulate, any of its retail services.⁴ AT&T South Carolina, therefore, respectfully requests the Commission to dismiss it from these proceedings.

AT&T South Carolina also seeks an expedited ruling on this Motion. Although the Commission’s December 12, 2017 Scheduling Notice does not require the Petitioner to pre-file direct testimony, it does require AT&T South Carolina, the ORS, and other respondents to pre-file their testimony on January 2, 2018. If this Motion to Dismiss is granted expeditiously (as it should be), AT&T South Carolina will be unaffected by this schedule. Otherwise, AT&T South Carolina intends to file a request to withdraw the Scheduling Notice and convene a status conference with all parties to discuss a revised schedule that will bring this matter to hearing in a timely manner without requiring any party to prepare and file testimony by January 2.

² *South Carolina Cable Television Assoc. v. South Carolina Public Service Commission*, 313 S.C. 48, 437 S.E. 2d 38, 38 (1993); *See also, City of Camden v. Public Service Commission of South Carolina*, 283 S.C. 380, 323 S.E. 2d 519, 521 (1984) (“[t]he Public Service Commission is a governmental body of limited power and jurisdiction, and has only such powers as are conferred upon it either expressly or by reasonably necessary implication by the General Assembly.”).

³ S.C. Code Ann. §58-9-280(G)(1).

⁴ S.C. Code Ann. §§58-9-576(C)(2)(b), (3).

Respectfully submitted this 19th day of December, 2017.

BELLSOUTH TELECOMMUNICATIONS, LLC
d/b/a AT&T SOUTH CAROLINA



Patrick W. Turner
Assistant Vice President – Senior Legal Counsel
AT&T South Carolina
675 W. Peachtree Street, N.W., Suite 4300
Atlanta, Georgia 30308
(404) 927-5290

STATE OF GEORGIA
COUNTY OF FULTON

)
)
)

CERTIFICATE OF SERVICE

The undersigned, Susan M. Hodge, hereby certifies that she is employed by the Legal Department for AT&T South Carolina and that she has caused AT&T South Carolina's Motion to Dismiss For Lack of Subject Matter Jurisdiction and Request for Expedited Ruling to be served by the method indicated below upon the following this 19th day of December, 2017:

Troy LaColla
207 Satterfield Road
Simpsonville, SC 29681
(By Email tlacolla207@gmail.com and U.S. Mail)

Betty Sanders, Sr. Dir. Regulatory Affairs
Charter Fiberlink SC-CCO, LLC
Charter Fiberlink
12405 Powerscourt Drive
St. Louis, MO 63131
(By Email betty.sanders@charter.com)

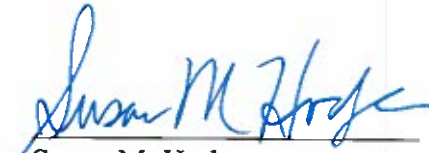
Susan A. Miller, Manager/Regulatory Affairs
Frontier Communications of the Carolinas Incorporated
3833 Salston Avenue
Durham, NC 27713
(By Email susan.miller@ftr.com)

Jenny R. Pittman
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201
(By Email jpittman@regstaff.sc.gov)

Jocelyn G. Boyd, Esquire
Chief Clerk
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(By Email jocelyn.boyd@psc.sc.gov)

Joseph Melchers
General Counsel
S.C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(By Email joseph.melchers@psc.sc.gov)

Hearing Examiner David Stark
101 Executive Center Drive, Suite 100
Columbia, SC 29210
(By Email david.start@psc.sc.gov)


Susan M. Hodge